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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 EVER.AG, LLC, a Delaware Limited  
12 Liability Company,

13 Plaintiff,

14 v.

15 MILK MOOVEMENT, INC., a/k/a Milk  
16 Moovement, LLC, a foreign Corporation,

17 Defendant.

No. 2:21-cv-02233-WBS-AC

ORDER

18 This case is before the court on Milk Moovement, Inc. (“Milk”)’s motion for the court to  
19 permit up to 15 depositions per side. ECF No. 449. The parties have submitted the required joint  
20 statement (ECF No. 453) and Milk has submitted the required declaration in response to the  
21 undersigned’s standing order to show cause. ECF Nos. 419, 453-5. Having considered all the  
22 arguments, the motion is DENIED.

23 This case has been before the undersigned on discovery matters numerous times and the  
24 parties are familiar with the history of this case; it will not be repeated here. Federal Rule of Civil  
25 Procedure 30(a)(2)(A)(i) requires a party to obtain leave of court before exceeding 10 depositions  
26 unless the parties stipulate to additional depositions. Both Milk and Ever.Ag. LLC (“Dairy”)  
27 have noticed more than 10 depositions. ECF No. 453 at 3. However, Dairy objects to the court  
28 ordering additional depositions, arguing that Milk has not made a particularized showing of the

1 need for additional depositions, the additional depositions are unnecessary, and that they are  
2 impractical considering the looming fact discovery deadline. ECF No. 453 at 5-8. Fact discovery  
3 in this case closes on October 27, 2023, though the parties have stipulated to take fact witness  
4 depositions beyond the deadline upon mutual agreement, on a case-by-case basis. ECF No. 458  
5 at 2.

6 The motion for additional depositions is DENIED because the court finds that Milk has  
7 not made a showing that the additional depositions are necessary, and the court is disinclined to  
8 order additional non-specific discovery in a case where the discovery is already bloated. Milk  
9 provides a list of 14 additional deponents, from whom they would choose five if this motion were  
10 granted. Milk does not identify any compelling need for any deponent; it simply wants additional  
11 deponents. The parties are free to stipulate to additional deponents, but the court sees no  
12 justifiable cause to order additional depositions.

13 With respect to the standing order to show case (ECF No. 419), the undersigned will not  
14 impose sanctions payable to the court at this time. However, the court cannot conclude,  
15 considering the timing of this motion and the generalized nature of the argument, that this motion  
16 was entirely unavoidable. The parties are on notice by previous orders that, by virtue of the  
17 specific discovery history of this case, the undersigned will be swift to order the losing party in a  
18 discovery dispute to pay fees incurred by the opposition. See, e.g., ECF No. 433. The  
19 undersigned concludes fee shifting is appropriate here, and Milk is ORDERED to reimburse  
20 Dairy at the hourly rate of \$350 for attorneys and \$75 for paralegals, for Dairy's hours expended  
21 in drafting the joint statement (hours spent in negotiations shall not be included). The court is  
22 confident that the parties can stipulate to the specific amount; should the court need to resolve a  
23 dispute related to the fee shifting order, sanctions and/or additional fees may issue as necessary  
24 and appropriate.

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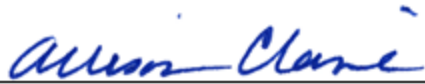
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1 It is ORDERED that the motion for additional depositions (ECF No. 449) is DENIED and  
2 Milk Moovement is ORDERED to reimburse Dairy its attorneys' fees associated with drafting the  
3 joint statement within 14 days of this order.

4 IT IS SO ORDERED.

5 DATED: October 12, 2023

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7 ALLISON CLAIRE  
8 UNITED STATES MAGISTRATE JUDGE  
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